International Law Outlined for the Beginner in Diplomacy

A Digest of International Law

Concrete Cases Affected by Sir Frederick Smith's Revised Work

MR. COLEMAN PHILLIPSON, in consultation with the original author, has revised and enlarged in a fifth edition the work on international law which was first presented to the public in 1899 by the present Lord Chancellor of England, Sir Frederick Smith, then a young barrister 'waiting for briefs,' as the expression is in England. Apart from improvement through revision, the youth of the author at the time of its first writing should not prejudice lay readers against this book, for many of the best legal treatises were written at this period in the lives of men who afterward became distinguished.

Persons in America who have heard of Sir Frederick Smith merely as vigorous and remorseless "Galloper" Smith in Irish prosecutions and as a rather intemperate and too plainly spoken propagandist in America will be interested to learn that in his early career he showed so marked a disposition for scholarly research and disinterested writing. It is true that the introduction to his book is in the main a vigorous and distinctly "political" plea for the imposition of drastically severe peace conditions and a broad assurance that international law fully authorizes such action. This introduction, written under extenuating circumstances only a month before the armistice, when the writer was Attorney General, is no indication of the temper of the book itself.

The style of the book is simple and readable, the method of treatment historical, supported by an apparently adequate and disinterested scholarship, and the material is well arranged, whether from the standpoint of one who wishes to read the book through or one who wishes to look up a particular subject.

Recognizing that international law (apart from resort to war) lacks the sanction of physical force, which is an essential characteristic of law as the term is ordinarily used, the author has based this book almost entirely upon the history of diplomatic negotiations and the actual practice of nations, so that one need not feel that the rules laid down are merely the views of the writer, a reproach often directed with justice against textbooks on this subject. At the same time and without apparent cynicism the author states that "respect for irksome international obligations has been commonly coincident with the lack of material strength to evade them." The factors making for the recognition and observance of international law (without considering a league of nations) are stated as follows:

"(1) A regard—which in a moral community flickers but seldom entirely dies—for national reputation as affected by international public opinion.

"(2) An unwillingness to incur the risk of war for any but a paramount national interest.

"(3) The realization by each nation that the convenience of settled rules is cheaply purchased in the majority of cases by the habit of individual compliance."

As examples of the interesting material to be found in this book we may refer to the passages bearing on the legality of Allied intervention in Russia, now apparently abandoned for military or economic reasons rather than consideration for international law, and to the passages dealing with the rights of consuls in connection with the action of the Department of State in the recent Jenkins case, which seems to have been one of the important counts against Mr. Lansing in the matter of his dismissal.

In relation to the claim that intervention in Russia was justified by the duty of the Allies to enforce the payment of the Czar's debts to their nationals, the following convention, adopted by The Hague peace conference in 1907 and ratified by Great Britain in 1909, is interesting:

"The contracting powers agree not to have recourse to armed force for the recovery of contract debts claimed from the government of one country by the government of another country as being due to its nationals. This undertaking is, however, not applicable when the debtor state refuses or neglects to reply to an offer of arbitration, or after accepting the offer renders the settlement of the *compromis* impossible, or after arbitration fails to comply with the award."

In connection with the blockade of Russia the discussion of "pacific blockade" is more interesting. Lord Palmerston is quoted in these words:

". . . but blockade is a belligerent right, and unless you are at war with a state you have no right to prevent ships of other states from communicating with the ports of that state—nay, you cannot prevent your own merchant ships from doing so."

It is interesting to consider the foregoing in connection with the recent decision of the Allies to permit shipments of certain commodities to certain consignees—namely, the coöperative societies—in Russia. With reference to the State Department's claim that Jenkins should not have been subjected to the Mexican courts on a question of alleged perjury and conspiracy, Jenkins being not a consul, but merely a consular agent, the following from Lord Ellenborough concerning consuls is of interest: "Then it is expressly laid down that he is not a public minister, and more than that, that he is not entitled to the *jus gentium* (the right of inviolability and exemption from the local civil and criminal jurisdiction). . . . It appears to me that a different construction would lead to enormous inconveniences, for there is a power of creating vice consuls and they too must have similar privileges."

Although Lord Ellenborough's remarks relate to a British statute, they state the general view concerning consuls, so that indignation on the part of Latin Americans concerning the Jenkins case should not be surprising.

In the event that diplomacy should become "open," as once promised by the author of many secret notes and even with the publicity now given to diplomatic correspondence, books of this character will be more generally read by persons wishing to see that the nation's rights are not unjustifiably sacrificed and that the nation's best interests (particularly in its reputation for fair dealing) are not jeopardized by an arbitrary and aggressive assertion of rights which do not exist. Editors and journalists will find this book very helpful, as will practicing lawyers, but students of international law will probably find it too much confined to a statement of what the law and practice of nations are and not enough concerned with what they should be.

Gossip

Zamacois Describes Modern Spain

ON AUTHORS and artists rests the burden of binding nations together in ties of mutual respect and friendship, declares Eduardo Zamacois, Spanish author and lecturer, whose works are now being translated and published in this country. "Nothing binds nations together so securely, and nothing so profoundly vitalizes them as literature and art. My ambition—or one of my ambitions—is to bring the Old World to the New and to take back the new to the old."

According to Zamacois, Spain is rapidly reviving industrially and becoming liberalized politically. The Spanish-American War, he declares, with its resultant loss to Spain of her colonies, was to that country a "blessing in disguise," for it made the Spanish nation roll up its sleeves and support itself by hard work. The work begun by that war is now being completed by the results of the world conflict, which has flooded Spain with new ideas, has given it free speech and a free press, and has begun to emancipate Spanish women.

The chief concern of this author is the fact that Spain is not well enough understood in this country. Foreigners "have seen in her only the picturesque, the medieval, the exotic." Spain not only has scientific and engineering triumphs to her credit, but is also engaged at present with "vast commercial undertakings and enormous manufacturing enterprises." Not the least factor in the rehabilitation of Spain, declares Zamacois, is the more widespread use of soap among the masses.

War Analyzed

Professor G. E. Partridge examines the psychological bases of war in his new book, "The Psychology of Nations," published by the Macmillan Company, New York. The author analyzes various contributory causes of war; the instincts of fear, hate, aggression and social unity, the emotions of patriotism, nationalism and national honor, the biological, political and economic factors which tend to bring on hostilities. Mr. Partridge does not believe that these psychological motives which make for war are necessarily evil; he contends that they are simply misdirected, and that the problem of the future is to direct the energies which have been expended in armed conflict into the channels of production and coöperation. In his own words, "the educational forces of the world must begin now the gigantic task of national character building. The spirit of the nations, the divergent motives of power, of glory, of comfort and pleasure-seeking that are said to dominate nations, the justice and loyalty and steadfastness and truth which at least they put upon their banners and into their songs, must be made to work together in a practical and progressive world, or to make such a world possible."

South American Glimpses

It is reported that the Century Company will publish in April a book on South America that will be quite different in character and arrangement from most travel books. The book is the result of a business trip made by the author, F. A. Sherwood, through Panama to Peru, south through Chile, and then over the Andes to Argentina, Uraguay and Brazil. While on this trip Mr. Sherwood jotted down the "snap-shot" impressions he received of the strange events, the picturesque customs and the quaint ceremonies he witnessed and the interesting and amusing characters he met. Wherever he went he collected innumerable photographs and a few fascinating pen-and-ink sketches. According to the publishers, these photographs, drawings and vivifying comments on people, incidents and places have been gathered together and put into a unique book of color, romance, fun and information, to be entitled "Glimpses of South America."

THE upper picture shows girls the proper way to hold a ball bat; the lower picture the incorrect way. The third picture demonstrates the proper position for bunting. The illustrations are from "Basket Ball and Indoor Baseball for Women," by Frost and Wardlaw, published by Charles Scribner's Sons

Cahan's Novel Reprinted

The Harpers are putting to press this week for reprinting Abraham Cahan's novel "The Rise of David Levinsky." David Levinsky is a Russian Jew who worked his way from peddling on the East Side of New York to the position of a millionaire manufacturer, and who tells the story of his struggles and success, and of his still unrealized aspirations.

A Musician's Memories

A varied and interesting career is described in "My Memories," by Ovide Musin (Musin Publishing Company), a Belgian violinist. M. Musin has appeared in concerts and recital all over the world and his book is full of reminiscences of famous musicians, including Karl Goldmark, César Franck, Eugen Ysaye and Leopold Godowsky.

Sees Through a Glass Darkly

Katherine Fullerton Gerould Surveys America and Sees Little Hope for It

By Rebecca Drucker

OUR American literature is not without its gentry. The line has, with perceptible coarsening, descended from Henry James through Edith Wharton to Katherine Fullerton Gerould. In Mrs. Gerould it was crossed with a strain of Rudyard Kipling. The effect of that admixture is something a little thick-skinned and heavy-limbed, something blatantly Tory. As if in subconscious resentment at that lapse from true stock, Mrs. Gerould clings the more passionately to her gentility.

As the custodian of American culture whose ascendancy is unquestioned north of Boston, Mrs. Gerould surveys our modern America and sees little to hope for it. Her book is heavy with tears and execrations. Now there are some things that Mrs. Gerould does very well. She can spear a social foible with an amusing malice. She has a gift for broad caricature and a gift again for rounded utterance. But it is none of these merits that gives "Modes and Morals" (Scribner), her latest book of essays, its distinction. It is genuinely fascinating for an intensely piquant quality of self-revelation. It might have been called "The Soul of a Snob," or, better still, "The Anatomy of a Snob," so revealing is its light.

Anglomania has always been in the highest tradition of our gentry. It is still, as it was in the '70s, our sign patent of a snob. Henry James and Edith Wharton flattered English culture—but subtly. One fancies them writhing a little at so crude a manifestation of it as this: "And—let us face it squarely—fundamental British feeling is on the whole the most decent on earth. As Americans, we like to think that we share it"——

From this angle it is no wonder that all our virtues seem pitiable to her. Consider "The New Simplicity," with which Mrs. Gerould leads off. In a flash of true inspiration she sees as the symbol of our democracy our passion for plumbing. It is also the measure of our failure. It is, as Mrs. Gerould sees it, an ignominious alternative born of our defeat at the hands of an unruly working class which will not know its place. We have let perverse notions of equality survive among us and—the sins of the fathers visited on the children—the result is we are without a servant class and the "amenities of civilization are threatened." These can only survive among us by hand-and-foot service. Mrs. Gerould quotes ecstatically those English households where the servant's ritual is not scanted by so much as a slop-jar, and civilization is thereby saved. Ours is threatened. "Even in the South some modification of the traditions has been necessary. The South must always have been badly though exuberantly served . . . In many ways Southerners have contended with the disheartening conditions faced by English households in the outposts of empire, dependent on another and stupid race for the satisfaction of their needs. . . It was slave labor, and slave labor reaches competence only by sheer force of numbers. There was never an ideal of domestic service there because there was never the rounded conception of civilized comfort in any slave's mind." As who should say "an ideal of track-walking," or "an ideal of coal-heaving" or "an ideal of garbage-dumping." And one wonders hazily whether the "rounded conception of civilized comfort" fails in the mind of the slave or the master.

This corroding materialism of the working classes is evident not only in domestic service, but in our whole industrial system as well. Mrs. Gerould speaks of economics with the joyous assurance of one who does not strain unnecessarily after accuracy. "The Pennsylvania miner making from forty to seventy-five dollars a day [a day, mind you!] buys an automobile—not necessarily a Ford—which waits for him at the entrance to the mine. His wife buys finery. Both buy the best food they can get"—— says she bitterly. This ultimate evidence of materialism is the most disheartening. And so Mrs. Gerould faces the moral and physical degeneration of the time—culture invaded by the mob, education threatened with reform, feminism, labor rampant—in a world where taboos are threatened, where poor folk aim at the same mark as their betters and where the exchange value of ancestry is heartbreakingly low. "In this mad world," says Mrs. Gerould, "one may do or be anything, but the man who has been brought up to eat with his knife is the less likely to respect a woman or not to break a confidence." These evil days, she sees as in a vision, are a mere season of trial to which the Lord for His inscrutable purposes has chosen to submit his select few. Since the proletariat have so cheapened the refinements of living, it is incumbent upon "that little aristocracy of the intellect and the spirit" (Mrs. Gerould is very fond of that phrase) to abandon them and seek "higher values." "Labor will have the motor cars and the delicacies of the table, the jewels and the joy rides; we must see to it that we keep something else. We must," she says, dramatizing her sainthood, "be frankly ascetic. I have implied that the combination of plain living and high thinking is a difficult one. We shall not sleep soft, we shall not live high, and we shall do without external beauty to a painful extent. We shall, I hope, ameliorate our lack of space and privacy by a very perfectly developed courtesy and a capacity for silence. It sounds monastic, and at its best monastic it will be. Certain things we shall have given up at the start; certain ambitions will have been erased from our tablets. We shall not compete with or interfere with the lords of this world. We shall do our modest work and receive our modest pay and by a corresponding modesty of life and temper we shall disarm, we hope, the unsympathetic and uncomprehending. Our kingdom cannot be of this world, and instead of complaining or criticizing we must apply ourselves to realizing that our compensations can be made greater than our losses."

It is, therefore, distressing to find in the next article but one, on page 58, a backsliding from this exalted attitude. In "Caviare on Principle" she replies to those who think it unreasonable that luxury should flourish while there is so much poverty. "Are we really," she breezily queries, "at this late day going to be duped by the mid-century fallacy that plain living and high thinking are a natural combination? Even if Shakespeare at New Place teaches us nothing, we cannot fail to be impressed by the memory of Thoreau stealing home from Lake Walden by dark to provide himself secretly with better fare than the woods provided." Which seems rather an unsportsmanlike back thrust at poor old Thoreau, and somehow serves to color her high-minded renunciation with a shade of the vulgar trait of disparaging what one cannot have.

In "Dress and the Woman" she scores the fallacies of fashion. Yet absurd and ugly as they are, conformity is the duty of the aristocrat. The sin of the willow plume is not that the rich woman imposes it on the world, but that the poor woman covets it. She is charmingly indulgent with aristocratic excesses and inconsistencies. "What! would you have no more cakes and ale?" Over the crudities of the parvenu rich she shudders elaborately, and is resigned. But any tendency in the lower classes, upward or downward, is evidence of dangerous brutalizing tendencies. Especially upward.

The reputation which Mrs. Gerould has for intellectuality gives the literary essays a special interest. In them, with a sprightly humor, she affirms her orthodox faith. One's disagreement with her is not on that point. After all, one may steer by Sir Charles Grandison as by Clayhanger and come to literary salvation.

Perhaps the greatest light on Mrs. Gerould's intellectuality is cast by the remarkable essay entitled "The Remarkable Rightness of Rudyard Kipling." There is no doubting the completeness of her identification with him. Expression has no further limits of admiration. There is in it a depth of feeling, a ring of passion, a completeness of sincerity strangely lacking in her perfunctory tributes to Shakespeare and Dante. He is to her Cassandra for prophecy and Galileo for Truth. In "The Truce of the Bear" she finds not only a warning against the Russia of the '90's, for which it was written, but a prophetic utterance against the Russia of to-day. He rings the boundaries of her thinking.

But in this affinity lies a deeper schism. For the other passion of Katharine Fullerton Gerould's soul is gentility—and gentility has been withheld from Kipling this long day. The tragedy is that, though the depths of her being acclaim him, yet she cannot own him until she has redeemed him from the charge of intellectual vulgarity under which he has lain for years. The passages in which her exoneration is set forth are the most interesting—and pathetic—in the book.

And yet the strong flavor of all these essays is that of vulgarity—the vulgarity of ostentatious refinement, of the little finger too markedly crooked out from the tea cup, and of smugness which is the surface side of stupidity. These essays evoke faith in that strange new wisdom of the Freudians, which affirms that the obsession of aristocracy is proof of an inferiority complex.

M. E. Ravage on Americanization

M. E. Ravage, author of "An American in the Making," is kept busy delivering addresses on Americanization before various bodies. Mr. Ravage has an office in Union Square, where he outlines his lectures and does his writing. "An American in the Making," which is published by the Harpers, is an account of his own progress from Rumanian immigrant to college instructor and publicist.